

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0325P

**Withholding Tax
Month Ending 04/30/02**

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed a late payment penalty for the month of April 2002. In a letter dated June 21, 2002, taxpayer requests a waiver of the penalty assessed. Taxpayer states the late filing was an oversight and not intentional.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer failed to timely remit its withholding tax for the month of April 2002. Taxpayer states the late filing and payment was an oversight and not intentional.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

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Taxpayer's failure to remit the tax timely was not the result of reasonable cause. Taxpayer has offered no reasonable explanation for the late payment.

FINDING

Taxpayer's protest is denied.

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